

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

TERRENCE MCCREA,
Plaintiff,

v.

J. BENEFIELD, et al.,
Defendants.

Case No. 17-cv-01041-MEJ (PR)

**ORDER REOPENING ACTION;
GRANTING LEAVE TO PROCEED IN
FORMA PAUPERIS**

Re: Dkt. Nos. 10, 11

This action was dismissed without prejudice on March 28, 2017 because plaintiff filed a notice of voluntary dismissal pending exhaustion of administrative remedies. Plaintiff has now filed a "motion requesting to be heard," which the Court construes as a motion to reopen the action. Plaintiff has also filed a complete IFP application and a complete civil rights complaint form pursuant to the Clerk's instructions. In the interests of justice, the action is hereby REOPENED. The order of dismissal (dkt. no. 6) is VACATED.

Plaintiff's application to proceed in forma pauperis is GRANTED. The total filing fee due is \$350.00. The initial partial filing fee due for the plaintiff is **\$0.00** (zero dollars), due to the apparent lack of funds in his inmate trust account at this time. The Clerk shall send a copy of this order and the attached instructions to plaintiff, the court's financial office, and the prison trust account office. Plaintiff's complaint will be reviewed in a separate order.

This order terminates Docket Nos. 10 and 11.

IT IS SO ORDERED.

Dated: September 6, 2017



MARIA-ELENA JAMES
United States Magistrate Judge

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

INSTRUCTIONS FOR PAYMENT OF PRISONER'S FILING FEE

The prisoner shown as the plaintiff or petitioner on the attached order has filed a civil action in forma pauperis in this court and owes to the court a filing fee. Pursuant to 28 U.S.C. § 1915, the fee is to be paid as follows:

The initial partial filing fee listed on the attached order should be deducted by the prison trust account office from the prisoner's trust account and forwarded to the clerk of the court as the first installment payment on the filing fee. This amount is twenty percent of the greater of (a) the average monthly deposits to the prisoner's account for the 6-month period immediately preceding the filing of the complaint/petition or (b) the average monthly balance in the prisoner's account for the 6-month period immediately preceding the filing of the complaint/petition.

Thereafter, on a monthly basis, 20 percent of the preceding month's income credited to the prisoner's trust account should be deducted and forwarded to the court each time the amount in the account exceeds ten dollars (\$10.00). The prison trust account office should continue to do this until the filing fee has been paid in full.

If the prisoner does not have sufficient funds in his/her account to pay the initial partial filing fee, the prison trust account office should forward the available funds, and carry the balance forward each month until the amount is fully paid.

If the prisoner has filed more than one complaint, (s)he is required to pay a filing fee for each case. The trust account office should make the monthly calculations and payments for each case in which it receives an order granting in forma pauperis and these instructions.

The prisoner's name and case number must be noted on each remittance. The initial partial filing fee is due within thirty days of the date of the attached order. Checks should be made payable to Clerk, U.S. District Court and sent to Prisoner Accounts Receivable, U.S. District Court, 450 Golden Gate Avenue, Box 36060, San Francisco, CA 94102.

cc: Plaintiff/Petitioner
Finance Office